

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 06-2609

Elaine L. Chao, U.S. Secretary of Labor,

Petitioner

v.

Andre Tuckpointing & Brickwork, and its Successors,

Respondent

No: 07-2304

Elaine L. Chao, U.S. Secretary of Labor,

Petitioner

Andre Stone & Mason Work, Inc., and its Successors,

Respondent

Appeal from Occupational Safety & Health Review Commission
(309867968)
(Insp. # 307275446)
(309867877)
(310079231)
(309750917)

ORDER

The Secretary of Labor has filed two petitions asking the court to adjudge Andre Tuckpointing & Brickwork, its owner, Brian Andre, and any successors or alter egos in Case No. 06-2609, and Andre Stone & Mason Work, Inc., its owner, Regina Shaw, and any successors or alter egos in Case No. 07-2304, to be in civil contempt of orders entered by this court on July 26, 2006, and July 10, 2007, which enforced final orders of the Occupational Safety and Health Review Commission. Upon consideration of the petitions, Andre Stone & Mason Work's response, and the Secretary's reply, it is hereby ordered that Magistrate Judge

Mary Ann Medler of the United States District Court for the Eastern District of Missouri is appointed Special Master to hear the petitions and to make a Report and Recommendation to this court.

The Magistrate Judge is requested to conduct a hearing on the Secretary's contempt petition and her motion for sanctions. The Magistrate Judge may consider evidence concerning the parties' competing claims as to whether the stipulated order, which was previously entered in the case, was substantially complied with, and if not, if there is any justification which would excuse the lack of compliance. If the Magistrate Judge recommends that Andre Stone & Mason Work be held in contempt, her Report and Recommendation should include a proposed sanction.

The Magistrate Judge is further requested to make findings in Case No. 06-2609 with respect to the status of Andre Tuckpointing & Brickwork and its relationship to Andre Stone & Mason Work. The court notes that Andre Tuckpointing & Brickwork has defaulted on the Secretary's motion for sanctions and that some form of a sanction order should be entered against it. However, the court requests that the Magistrate Judge include a recommendation concerning sanctions against Andre Tuckpointing & Brickwork.

Nothing in this order should be construed as preventing the Magistrate Judge and the parties from mediating this dispute and attempting to resolve the outstanding matters without an adjudication as to whether contempt has occurred.

January 24, 2008

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans